SEC. 107. NATURE OF AWARDS.

(a) DEATH BENEFITS.—In any case in which the Department determines, under regulations issued pursuant to this Act, that an eligible individual has died as the direct and proximate result of an act of international terrorism, the Department shall award a benefit to the survivor or survivors in the same manner and the same amount as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

(b) INJURY OR HOSTAGE BENEFIT.—In the event the claimant was physically injured or held hostage as a direct result of an act of international terrorism, the Department shall award a benefit to the claimant in an amount determined by the Department up to, but not to exceed, the amount provided for under the preceding subsection. The Secretary of State may issue regulations regarding the amount of benefits to be provided under this subsection for categories of injuries or for durations of time as a hostage.

(c) NO FAULT PROGRAM.—Awards shall be made without regard to the negligence or any other theory of liability of the claimant or of the individual on whose behalf the claimant is filing a claim.

(d) REVERSION OF AMOUNTS TO THE FUNDS.—If no person is entitled to receive the amount awarded under the above subsections, the amount shall revert to the Fund.

SEC. 108. LIMITATIONS ON CLAIMS.

(a) PROHIBITION ON DOUBLE RECOVERY.—No benefit is payable under this Act with respect to a victim having been injured or held hostage if a benefit is payable under this Act with respect to the death of such victim. In the event that a payment is made under this Act on account of death or period as a hostage and a death benefit subsequently becomes payable for the death of the same victim, such death benefit shall be reduced by amounts previously awarded.

(b) TIME LIMITATION FOR FILING.—No claim may be filed on the basis of an act of international terrorism after the date that is 2 years after the date of publication in the Federal Register of the relevant determination under section 104(a) of this Act.

SEC. 109. INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE.

(a) INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE.—Benefits may be awarded under this Act, subject to the provisions of subsection (b) of this section, to eligible individuals for acts of international terrorism that took place before the effective date of this Act and which occurred on or after November 1, 1979.

(b) DETERMINATION.—The Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall issue, promptly upon the request of a claimant potentially covered under subsection (a), a determination whether an incident that occurred on or after November 1, 1979, and before the date of enactment of this Act was an act of international terrorism. Such requests will be considered only if made within one year after the date of enactment of this Act. Any such determination shall be published in the Federal Register.

SEC. 110. AUTHORIZATION.

(a) AUTHORIZATION.—There is established for the purpose of providing benefits under this Act a Victims of International Terrorism Benefits Fund (''Fund''). In addition to amounts otherwise authorized to be appropriated for the Department of State, there are authorized to be appropriated to the Department of State for deposit into the Fund such sums as may be necessary to pay awards under this Act and to administer this Program.

(1) Amounts in the Fund shall be available until expended.

(2) CONTRIBUTIONS.—The Secretary of State is authorized to accept such amounts as may be contributed by individuals, business concerns, foreign governments, or other entities for the payment of awards certified under this Act and such amounts may be deposited directly into the Fund.

(3) Unexpended balances of expired appropriations available to the Department of State may be transferred directly into the Fund for the payment of awards under this Act and, to the extent and in such amounts as provided in appropriations acts, for the costs to administer this Program.

SEC. 111. SUBROGATION.

The United States shall be subrogated, to the extent of the payments, to any recovery in litigation or settlement of litigation related to an injury, death, or period of a hostage for which payment was made under the Program. Any amounts recovered under this subsection shall be deposited into the Fund established by section 110(a).

SEC. 112. ADMINISTRATIVE PROVISIONS.

(a) RULE AND PROCEDURES.—The Secretary of State may issue such rules and procedures as may be necessary to carry out this Act, including rules with respect to choice of law principles, admitting agents or other persons to representation before the Department of claimants under this Act, and the nature and maximum amount of fees that such agent or other person may charge for such representation.

(b) ACTS COMMITTED TO OFFICER'S DISCRETION.—Any action taken or omitted by an officer of the United States under this Act is committed to the discretion of such officer.

(c) CIVIL ACTIONS AGAINST FOREIGN STATES.—

(1) A person who by a civil action has obtained and received full satisfaction of a judgment against a foreign state or government or its agencies or instrumentalities, or against the United States or its agencies or instrumentalities, for death, injury, or period as a hostage due to an act of international terrorism shall not receive an award under this Act based on the same act of international terrorism.

(2) A person who has accepted benefits pursuant to an award under this Act relating to an act of international terrorism shall not thereafter commence or maintain in a court of the United States a civil action based on the same act of international terrorism against a foreign state or government or its agencies or instrumentalities or against the United States or its agencies or instrumentalities.

SEC. 113. NO JUDICIAL REVIEW.

Decisions made under this Act shall not be subject to review in any judicial, administrative or other proceeding.

SEC. 114. CONFORMING AMENDMENTS.

(a) Section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107–297) is amended by adding the following as new subsection (e):

''(e) Subsection (a) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003].''

(b) Section 1610(f) of Title 28, United States Code (28 U.S.C. 1610(f)), is amended by adding the following at the end as new subparagraph (4):

''(4) Subsection (f) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003].''

U.S. DEPARTMENT OF STATE,
Washington, DC, June 5, 2003.

Hon. RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: We are transmitting for your consideration a draft bill to establish a program to provide benefits for United States victims of international terrorism.

The proposed legislation is based on the following three principles:

The program should provide the same benefits to those with low incomes as those with greater means;

Victims should receive compensation as quickly as possible; and

The amount of compensation should be on par with that provided to families of public safety officers killed in the line of duty (currently $262,000).

Thus, the government program should not be designed as the primary means of compensating victims and victims' families for their losses, but rather should complement life insurance, savings, and other private financial measures.

In contrast to a mechanism that uses blocked assets and rewards those that can secure judgements before such assets are exhausted, a fund based on the above principles would provide compensation for all victims fairly and equitably. It also preserves the President's prerogatives in the area of foreign affairs.

The proposed fund would be administered within the Department of State. The legislation includes authorization for appropriations necessary to compensate victims. In addition to these costs, a benefits adjudication unit will be established within the Department soon after enactment.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposal to Congress.

We urge your support for passage of this legislation, which provides compensation for U.S. victims of international terrorism in a fair and rational way.

Sincerely,

PAUL V. KELLY,
Assistant Secretary, Legislative Affairs.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 172—HONORING THE LIFE OF MEDIA REPORTING GIANT DAVID BRINKLEY, AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. MCCONNELL (for himself and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 172

Whereas the Senate has learned with sadness of the death of David Brinkley;

Whereas David Brinkley, born in Wilmington, NC, greatly distinguished himself as a newspaper reporter, radio correspondent, and television correspondent;

Whereas David Brinkley attended the University of North Carolina and served in the North Carolina National Guard;

Whereas David Brinkley's first job in Washington was covering the White House in 1943 for NBC as a radio reporter;

Whereas David Brinkley co-anchored ''The Huntley-Brinkley Report,'' along with Chet

Huntley, which was widely popular during the 1960's;

Whereas David Brinkley hosted ''This Week with David Brinkley'' for fifteen years and it was the number one Sunday program when he retired in 1996;

Whereas David Brinkley covered eleven presidents, four wars, 22 political conventions, a moon landing and three assassinations;

Whereas David Brinkley wrote three books, won ten Emmy awards, six Peabody Awards, and in 1992, the Presidential Medal of Freedom, the nation's highest civilian honor;

Whereas David Brinkley is considered by many to be the premier broadcast journalist of his time;

Whereas David Brinkley was well known for his wry sense of humor, fundamental decency, gentlemanly charm, and his one-of-a-kind writing style will forever be remembered by his friends, colleagues, and the countless members of the television audience he touched week to week over his more than fifty year career: Now, therefore, be it

Resolved, That the Senate—

(1) pay tribute to the outstanding career of David Brinkley

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of David Brinkley.

SENATE RESOLUTION 173—TO AMEND RULE XVI OF THE STANDING RULES OF THE SENATE WITH RESPECT TO NEW OR GENERAL LEGISLATION AND UNAUTHORIZED APPROPRIATIONS IN GENERAL APPROPRIATIONS BILLS AND AMENDMENTS THERETO, AND NEW OR GENERAL LEGISLATION, UNAUTHORIZED APPROPRIATIONS, NEW MATTER, OR NONGERMANE MATTER IN CONFERENCE REPORTS ON APPROPRIATIONS ACTS, AND UNAUTHORIZED APPROPRIATIONS IN AMENDMENTS BETWEEN THE HOUSES RELATING TO SUCH ACTS, AND FOR OTHER PURPOSES

Mr. MCCAIN (for himself, Mr. KYL, Mr. SESSIONS, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 173

Be it Resolved, That paragraph 1 of Rule XVI of the Standing Rules of the Senate is amended to read as follows:

''1. (a) On a point of order made by any Senator:

''(1) No new or general legislation nor any unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No new or general legislation nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

''(4) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill is sustained, then—

''(A) the new or general legislation or unauthorized appropriation shall be struck from the bill; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly.

''(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained, then an amendment to the House bill is deemed to have been adopted that—

''(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly.

''(c) If the point of order against an amendment under subparagraph (a)(2) is sustained, then the amendment shall be out of order and may not be considered.

''(d) If the point of order against a conference report under subparagraph (a)(3) is sustained, then—

''(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter in such conference report shall be deemed to have been struck;

''(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be deemed to be reduced accordingly;

''(3) when all other points of order under this paragraph have been disposed of—

''(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated and reduction in the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) deemed to have been made);

''(B) the question shall be debatable; and

''(C) no further amendment shall be in order; and

''(4) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(e)(1) If a point of order under subparagraph (a)(4) against a Senate amendment is sustained, then—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly; and

''(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) If a point of order under subparagraph (a)(4) against a House amendment is sustained, then—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly; and

''(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(f) The disposition of a point of order made under any other paragraph of this Rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

''(g) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(h) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill, a conference report on a general appropriation bill, or an amendment between the Houses on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (g), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(i) Notwithstanding any provision of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.), no point of order provided for under that Act shall lie against the striking of any matter, the modification of total amounts to reflect the deletion of matter struck, or the reduction of an allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) to reflect the deletion of matter struck (or to the bill, amendment, or conference report as affected by such striking, modification, or reduction) pursuant to a point of order under this paragraph.

''(j) For purposes of this paragraph:

''(1)(A) The term 'unauthorized appropriation' means an appropriation—

''(i) not specifically authorized by law or Treaty stipulation (unless the appropriation

has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(ii) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(B) An appropriation is not specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

''(i) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction, direction, or authorization, for the amount appropriated; or

''(ii) is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

''(2) The term 'new or general legislation' has the meaning given that term when it is used in paragraph 2 of this Rule.

''(3) The terms 'new matter' and 'nongermane matter' have the same meaning as when those terms are used in Rule XXVIII.''.

SEC. 2. STATEMENT REGARDING EFFECT OF REPORT LANGUAGE.

Paragraph 7 of Rule XVI of the Standing Rules of the Senate is amended by adding at the end ''It shall not be in order to proceed to the consideration of a general appropriation bill if the report on that bill contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

''(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the requirement or permission, for the amount appropriated; or

''(B) it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).''.

SEC. 3. STATEMENT REGARDING EFFECT OF JOINT EXPLANATORY STATEMENT LANGUAGE.

Rule XXVIII of the Standing Rules of the Senate is amended—

(1) by striking ''The'' in paragraph 1 and inserting ''Except as provided in paragraph 7, the''; and

(2) by adding at the end the following:

''7. It shall not be in order to proceed to the consideration of a conference report on a general appropriations bill if the joint explanatory statement contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

''(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction or direction, for the amount appropriated; or

''(B) is so restricted or directed that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction or direction applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).''.

SEC. 4. READING OF CONFERENCE REPORT AND JOINT EXPLANATORY STATEMENT.

(a) VITIATING THE STANDING ORDER OF THE SENATE REGARDING THE READING OF CONFERENCE REPORTS.—The Standing Order of the Senate regarding the reading of conference reports established by the second sentence of section 903 of Division A of Appendix D—H.R. 5666 of the Consolidated Appropriations Act, 2001 (114 Stat. 2763A-198) is vitiated.

(b) READING OF JOINT EXPLANATORY STATEMENT.—There is established, as a Standing Order of the Senate, that the presentation of a conference report includes the presentation of the joint explanatory statement of the conferees required by paragraph 4 of Rule XXVIII of the Standing Rules of the Senate, and that a demand for the reading of the joint explanatory statement be subject to the same rules, precedents, and procedures as apply to a demand for the reading of the conference report.

Mr. MCCAIN. Mr. President, the resolution I am submitting today is a resolution to amend the Standing Rules of the Senate to give every Member the ability to raise points of order in objection to unauthorized appropriations or locality-specific earmarks that would circumvent the authorizing or competitive award process. I am pleased to be joined in this effort by my colleagues, Senators KYL, SESSIONS, and FEINGOLD.

Specifically, the resolution would establish a new procedure, modeled in part after the Byrd Rule, which would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, including earmarks, in any general appropriations bills or amendments to general appropriations bills. It also would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, new matter, or nongermane matter in any appropriations conference reports, and against unauthorized appropriations in amendments between the Houses.

Unless a point of order is waived by the affirmative vote of 60 votes, the unauthorized provision would be extracted from the measure, and the overall cost of the bill would be reduced by the corresponding amount. Furthermore, if a point of order is sustained against a provision in a conference report, that provision also would be stricken. The legislative process would continue, however, and the legislation would revert to a nonamendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House.

The proposed rules change also includes two exemptions to points of order that currently apply to amendments to appropriations bills under rule XVI: appropriations that had been included in the President's budget request or would be authorized by a bill already passed by the Senate during that session of Congress. Such appropriations would not be subject to points of order under the proposed rules change.

Finally, as my colleagues know, the reports accompanying appropriations bills and the statements of managers that accompany conference reports are chock full of unauthorized appropriations and site-specific earmarks, typically far exceeding those in the bill language. There has been a growing tendency over the years for these reports to be viewed by Federal agencies as statutory directives. The fact is, of course, the Appropriations Committee reports and statements of managers are advisory only. Unless a device for curtailing such earmarking in report language is also implemented, the new rule could be rendered almost meaningless. Therefore, under our proposal, it would not be in order to consider an appropriations bill or conference report if the accompanying documents include unauthorized or earmarked items.

The proposal would not be self-enforcing but, rather, it would allow any Member to raise a point of order in an effort to extract objectionable unauthorized provisions. Our goal is to reform the current system by empowering all Members with a tool to rid appropriations bills of unauthorized funds, porkbarrel projects, and legislative policy riders.

For many years, I have worked to call attention to the wasteful practice of congressional earmarking whereby parochial interests are placed above national interests. Unfortunately, congressional earmarks have continued to rise year after year. In fact, according to information compiled from the CRS, the Congressional Research Service, the total number of earmarks has grown from 4,126 in fiscal year 1994, to 10,540 in fiscal year 2002. That is an increase of over 150 percent. And for the year 2003, the increase in number, from our preliminary estimates, is somewhere around 1,300 earmarks.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending.

By the way, the earmarked funds have gone up a commensurate amount from $26.8 billion in fiscal year 1994, to $44.6 billion earmarked in 2002. I think

what this chart shows is as important as the earmarks, given the fact that we are now up close to $50 billion in earmarked funds in our appropriations bills.

And this chart does not include the number of fundamental policy changes that are made in the appropriations process because they cannot get through the authorizing process, which is the proper process. And they, many times—as in a case that I will mention in a few minutes—often cost hundreds of millions of dollars to the taxpayers. Language included in the Department of Defense appropriations bill for fiscal year 1998 is a classic example. There were no funds earmarked in that bill that would show up here. It did show up as one policy change.

What it did do, in the Defense appropriations bill, is it granted a legal monopoly for American Classic Voyages to operate as the only U.S.-flagged operator among the Hawaiian Islands. After receiving the monopoly, American Classic Voyages secured a $1.1 billion loan guarantee from the U.S. Maritime Administration's title XI loan guarantee program for the construction of two passenger vessels known as Project America.

Project America's subsequent failure 4 years later resulted in the U.S. Maritime Administration paying out $187.3 million of the taxpayers' money to cover the project's loan default and recovering only $2 million from the sale.

I am not alone in the opinion that the earmarking process has reached the breaking point. Consider the administration's recently submitted proposal to reauthorize the multiyear highway transit and safety programs which will expire in September 30, 2003. Interestingly, that proposal, entitled the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA, proposes to largely eliminate discretionary programs that currently exist under the Department's authority.

Why is that? One would think the Secretary of Transportation would be advocating the growth of discretionary programs so that he can award Federal grants for projects based on a meritorious selection process.

But over the years, such discretion has been assumed by the appropriators during the annual transportation appropriations process and all but nullified any role on the part of the Secretary and his ability to award discretionary grants.

Transportation Secretary Mineta, in testimony before the Senate Commerce Committee, stated:

> SAFETEA eliminates most discretionary highway grant programs and makes these funds available under the core formula highway grants programs. States and localities have tremendous flexibility and certainty of funding under the core programs. Unfortunately, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their own transportation problems.

To further illustrate the enormity of the earmarking situation, my colleagues need only consider the transportation earmarking that has occurred during the past 5 years. According to the Department of Transportation inspector general, Congress appropriated $18 billion in discretionary funding for highway transit and aviation discretionary programs during fiscal years 1998 through 2002. Of that amount, $11 billion or 60 percent was earmarked by Congress.

Let me just offer a few specific examples of recent earmarks: From the war supplemental appropriations conference report, $110 million for modernization of the Agriculture Research Service, and Animal and Plant Health Inspection Service Facilities near Ames, IA. That was from a war supplemental appropriations conference report, specifically for the war in Iraq and homeland security. From the 2003 omnibus appropriations conference report, $1 million for a bear DNA sampling study in Montana; $280,000 for asparagus technology and production in Washington; $220,000 to research future foods in Illinois; $10 million for a seafood marketing program in Alaska; $250,000 for research on the interaction of grapefruit juice and drugs; $50,000 to combat feral hogs in Missouri; $2 million for the Biomass Gasification Research Facility in Birmingham, AL; $500,000 for the gasification of switchgrass in Iowa; $1 million for the National Agriculture-Based Industrial Lubricants Center in Iowa; and $202,500 to continue rehabilitation of the former Alaska Pulp Company mill site in Sitka, AK.

I usually make a lot of fun and jokes about these things, but it is getting out of hand. It is really getting out of hand. When we are looking at a $400 billion deficit this year, can we afford $1 million for a bear DNA sampling study in Montana?

The conference report also included an agricultural policy change to make catfish producers eligible for payments under the livestock compensation program even though hog, poultry, or horse producers are not eligible.

Further, the conference agreement contained provisions which allow a subsidiary of the Malaysian-owned Norwegian Cruise Lines the exclusive right to operate several large foreign-built cruise vessels in the domestic cruise trade. This provides an unfair competitive advantage to a foreign company at the expense of all other cruise ship operators and creates a de facto monopoly for NCL in the Hawaiian cruise trade.

From the fiscal year 2002 transportation appropriations conference report, nearly $1 billion in highway program funding authorized to be distributed to the States by formula at the discretion of the Secretary was instead, for the first time, redirected and earmarked for projects such as $1.5 million for the Big South Fork Scenic Railroad enhancement project in Kentucky; $2 million for a public exhibition on ''America's Transportation Stories'' in Michigan; and $3 million for the Odyssey Maritime Project, a museum, in Washington. That was out of highway funds.

The National Corridor Planning & Development & Corridor Border Infrastructure Program was authorized at $140 million. But the appropriators provided an additional $333.6 million over the authorized level for a total of $492.2 million in funding. The conferees then earmarked 100 percent of the funding for 123 projects in 38 States. Earmarks included, surprisingly, $54 million for three projects in West Virginia; $43 million for 18 projects in Kentucky; $34.5 million for seven projects in Mississippi; $34 million for five projects in Washington; and $27 million for six projects in Alabama. Twelve States received zero funding under any program: Arizona, Colorado, Delaware, Hawaii, Nebraska, Nevada, North Dakota, Rhode Island, South Carolina, Utah, Vermont, and Wyoming.

I could go on citing examples of arbitrary earmarks. I will refrain for now. But something has to be done to put a halt to the alarming increase in earmarking.

I went over the rules changes and what they meant, but I would just like to give a most recent example. An issue that has arisen which is of great concern to many Americans is the issue of media concentration. We have had several hearings in the Commerce Committee. We had the FCC Commissioners up before the committee after they made a ruling. It has probably aroused more interest than any other issue ever before the Federal Communications Commission, certainly in recent memory.

Seven hundred fifty thousand Americans contacted the FCC on this issue of media concentration. The issue is difficult. It is complex. We have had many hearings on it. Over time, I have become convinced that this issue is a serious one. I believe there are serious problems with radio concentration. I am not sure what the answer is and exactly how we go about addressing the issue of both vertical and horizontal concentration, cross-ownership of newspapers, and television stations and cable stations and radio stations. But the committee will continue to explore it.

Last week, three of my colleagues from the Senate held a press conference: My dear friend Senator HOLLINGS, ranking member of the Commerce Committee, former chairman; Senator STEVENS of Alaska, second ranking member of the committee; and Senator LOTT, a very distinguished member of the committee. At the time, they said they were introducing legislation to freeze the ownership at 35 percent which would then counteract and repeal the rule raising media concentration levels to 45 percent by FCC.

The only reason I mention this is immediately in answer to the first question, they said: If we don't get it

through the committee, we can always put it on an appropriations bill. That was the comment made.

Mr. President, that is not the right way to do business on a major fundamental policy change, to tack it on as one line, as was described by Senator HOLLINGS, that we can always just zero out the funding. That is not the way we should be doing business.

This issue should be decided by all 100 Senators on the floor of the Senate. I am not saying the sponsors of the legislation are wrong. But this has to do with billions of dollars in acquisitions, or nonacquisitions, with fundamental changes within the media. The answer was, well, we will put it on an appropriations bill if we cannot get it through committee. The committee will be marking it up on Thursday. I don't know if it will get to the floor. That is up to the majority leader but, more importantly up to my colleagues who may put holds on it.

These are serious issues that impact greatly the United States of America, and they are being decided on appropriations bills, stuck in without even so much as a hearing many times. I will be on the floor many times on this issue because it is a long way from us being able to remove this power from the Appropriations Committee and put it back into the authorizing committees where it belongs.

Finally, some of the proudest and most intense and enjoyable moments of my political career have been as chairman of the Commerce Committee. I believe the Commerce Committee is well suited to address these issues. I believe the Commerce Committee is well suited to authorize major programs and address major policy challenges that confront the Nation, whether it is commerce, science, transportation, information technology, telecommunications, aviation, or all of the other issues. I don't think they should be decided by the Appropriations Committee, as far as policy is concerned. As far as the amounts of money are concerned, that is their job. I pretend to have no ambitions on that issue.

We have to get this out-of-control—and I mean totally out-of-control—situation under control. The situation has been dramatically exacerbated by the fact that we are now looking, in sheer whole numbers, at the highest deficits in the history of this country. As far as a percent of GNP, they are not the highest, but we are talking about at least $400 billion this year.

We are about to—I am happy to say—pass a Medicare prescription drug program that will cost about $400 billion or more over a 10-year period. We are looking at Social Security and Medicare. We cannot afford this high cost anymore. I believe the chairman of the Rules Committee will be holding a hearing on this issue. I don't believe it would get through the Rules Committee, but I am very grateful to Senator LOTT that he would allow a hearing on this issue. But I do not intend to give up on it. We will be discussing it and debating it for a long time.

My constituents—and every American—do not expect us to act in this fashion, which in many cases is totally irresponsible.

I yield the floor.

Mr. KYL. Mr. President, the Congressional Budget Act, Rule 21 of the House of Representatives, and Rule 16 of the Senate are all designed to establish a balance between authorizing legislation and appropriations bills that would allow Congress to consider authorizing legislation in a timely and thoughtful manner, and prevent the year-ending appropriations process from degenerating into a venue for policymaking and provincialism.

Yet, according to CBO, over the past several years, the total amount of unauthorized appropriations has ranged between about $90 billion and $120 billion annually, and since 1998, the number of earmarks has risen by 150 percent to 10,540, which cost $44.6 billion in 2002 alone. This trend has made a mockery of our institutional arrangement and beckons us to take action to fix the system.

The bill introduced today is not perfect, but it recognizes the deficiencies in current procedure and represents an earnest and thoughtful attempt to correct them. It would improve Rule 16 to close the loophole that currently insulates Senate appropriations committee-reported bills containing unauthorized appropriations and legislative language from points of order, while preserving the Senate's ''defense of germaneness'' to amend legislative language in House-passed appropriations bills.

It would also preserve balance between the Houses by allowing any Senator to raise a point of order against unauthorized appropriations included in a House-passed appropriations bill, conference report, or amendment between Houses. Finally, the bill attempts to regulate the practice of using committee or conference report language to earmark funds.

We have a problem; I think that much is clear. If other Members of this chamber do not agree with specific provisions of this bill, I ask that they offer constructive suggestions as to how best to breathe life back into Rule 16 and the institutional balance between authorization and appropriations. In the midst of the War on Terrorism and projected budget deficits, it would be an abrogation of our role as elected officials to allow the status quo to persist.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 18, 2003, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on Native American Sacred Places.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 17, 2003, at 10:00 a.m., to hear testimony on the ''Implementation of U.S. Bilateral Free Trade Agreements with Singapore and Chile.''

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 9:30 a.m., to hold a hearing on ''Treaties Related to Aviation and the Environment.''

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 17, 2003, at 10:00 a.m., to hold a business meeting to consider pending Committee business.

Agenda

Legislation: S. 481, the Kurtz Bill; S. 589, Homeland Security Workforce Act; S. 610, NASA Workforce Flexibility Act of 2003; S. 678, Postmasters Equity Act of 2003; S. 908, United States Consensus Council; S. 910, Non-Homeland Security Mission Performance Act of 2003; S. 926, Federal Employee Student Loan Assistance Act; S. 1166, National Security Personnel System Act; and S. 1245, Homeland Security Grant Enhancement Act.

Post Office Naming Bills: S. 508, a bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the ''Floyd Spence Post Office Building''; S. 708, a bill to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the ''Michael J. Healy Post Office Building''; S. 867, a bill to designate the facility of the United States Postal Service located at 710 Wicks Lane in Billings, Montana, as the ''Ronald Reagan Post Office Building''; S. 1145, a bill to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the ''Patsy Takemoto Mink Post Office Building''; S. 1207, a bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the ''Walt Disney Post Office Building''; H.R. 825, an act to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the ''Michael J. Healy Post Office Building''; H.R. 917, an act to designate the facility of the United States Postal Service located at 1830 South